

[31st July 1952]

III.—GOVERNMENT MOTIONS.

(1) MOTION UNDER RULE 24 OF THE MADRAS ASSEMBLY RULES.

THE HON. SRI C. SUBRAMANIAM :—“ Mr. Speaker, Sir, I beg to move—

That Rule 24 of the Madras Assembly Rules be suspended and the House do resolve to transact Government business on Thursday, the 31st July 1952.’ ”

SRI T. NAGI REDDI :—“ There is no objection, Sir; but I would like to have some information. I should like to know whether the Government will be able to give us instead of this day some other day immediately following, so that we can have a non-official day immediately? That is what I am requesting. There must be many resolutions received, and I think the Hon. Speaker must have an idea of them. One of those resolutions may come before the House, and we can have a chance to discuss it if a non-official day is allotted now.”

SRI T. VISWANATHAM :—“ If the Hon. Leader of the House is willing to give a day, no further discussion is necessary, Sir.”

THE HON. SRI C. SUBRAMANIAM :—“ The question is whether we can immediately give a day, i.e., tomorrow or the day after. Unfortunately, all the Members are anxious to finish the business to-day, even if necessary by sitting till six o'clock in the evening.”

MR. SPEAKER :—“ Most of the Members, I think, have already booked their seats in the trains for returning home.”

THE HON. SRI C. SUBRAMANIAM :—“ Therefore, it is not possible to allot a day ‘ immediately ’; but if it is to be in the next session, certainly I will consider the suggestion; and if necessary, we shall even allot another extra day for non-official business.”

MR. SPEAKER :—“ The question is—

‘ That rule 24 of the Madras Assembly Rules be suspended and the House do resolve to transact Government business on Thursday, the 31st July 1951.’ ”

The motion was carried.

(2) NOTIFICATION MADE BY THE GOVERNOR UNDER FIRST PROVISIO TO SECTION 3 (1) OF THE MADRAS SALES OF MOTOR SPIRIT TAXATION ACT, 1939.

* THE HON. SRI S. B. P. PATTABHI RAMA RAO :—“ Mr. Speaker, Sir, I beg to move—

‘ That the following notification made by the Governor of Madras, under the first proviso to section 3 (1) of the Madras Sales of Motor Spirit Taxation Act, 1939 (Madras Act VI of 1939) be approved :—

NOTIFICATION.

In exercise of the powers conferred by the first proviso to section 3 (1) of the Madras Sales of Motor Spirit Taxation Act, 1939 (Madras Act VI of 1939), the Governor of

31st July 1952] [Sri S. B. P. Pattabhi Rama Rao]

Madras hereby fixes six annas per gallon as the rate at which tax shall be levied under that Act on all retail sales of petrol, with effect on and from the date on which this notification is approved by a resolution of the Legislative Assembly.

Mr. Speaker, Sir, in moving this, I beg to state that hon. Members are aware of the circumstances under which the Madras Sales of Motor Spirit Taxation Ordinance came to be promulgated in June 1952. It was promulgated so quickly that there was no loss of revenue due to the notification having been forestalled by the Press. Usually an ordinance has to be replaced by an Act of the Legislature within six weeks of the day on which the Assembly reassembles. In this case, however, the Government can alter the rate of taxation by some notification, but section 3 (1) of the Madras Sales of Motor Spirit Taxation Act, 1939, requires that the notification should be approved by the Legislative Assembly, and hence the necessity for this resolution. The Government have examined the question whether it is necessary to validate or ratify the Ordinance, and have considered it unnecessary to do either. The resolution says that the enhanced rate will take effect from the date on which the notification is approved by a resolution of the Assembly. As the Ordinance mentions the same rate of tax, viz., 6 annas, it is not necessary to make any alteration now, and no legal complications will follow. The Ordinance will automatically cease to be valid after six weeks, and thereafter the rate as approved by the House will be in force. Hence I request the House to adopt this resolution."

MR. SPEAKER :—" Motion moved—

That the following notification made by the Governor of Madras under the first proviso to section 3 (1) of the Madras Sales of Motor Spirit Taxation Act, 1939 (Madras Act VI of 1939), be approved :—

NOTIFICATION.

In exercise of the powers conferred by the first proviso to section 3 (1) of the Madras Sales of Motor Spirit Taxation Act, 1939 (Madras Act VI of 1939), the Governor of Madras hereby fixes six annas per gallon as the rate at which tax shall be levied under that Act on all retail sales of petrol, with effect on and from the date on which this notification is approved by a resolution of the Legislative Assembly."

* SRI T. VISWANATHAM :—" Sir, I have got some difficulties and I would like to draw the attention of the Hon. Minister to them. The motion says 'That the following notification made by the Governor . . . be approved'. Firstly, the date when the notification is made is not given. I want to raise two objections. They amount to points of order and I take them as points of order.

"The first point of order is this. Under section 3 (1) of the Madras Sales of Motor Spirit Taxation Act, the rate of tax can be

[Sri T. Viswanatham]

[31st July 1952]

altered by a notification made by the Governor and that notification should be approved by a resolution of the Legislative Assembly. The Act is an old Act of 1939. No doubt it is in force, and to that extent this resolution is valid. But I submit that the Constitution has changed the whole position. To the extent to which this Act is against the terms of the Constitution, it is invalid. That is a proposition with which you will certainly agree. Article 265 is one of the shortest but one of the greatest Articles of our Constitution. It says 'No tax shall be levied or collected except by authority of law'. I submit that this is one of the safeguards in the interests of democracy. The Madras Sales of Motor Spirit Taxation Act says that the notification of the Governor increasing the rate of tax should be approved by a resolution of the Legislative Assembly. I submit that a resolution of the Assembly is no law at all. A law, as you know, must have all the component parts of a legislation like a Preamble, short title, etc., and must have passed through all its three stages. A mere resolution of the Assembly will not enable the Government, after the coming into force of the Constitution, to increase the rate of tax."

MR. SPEAKER :—"The wording of Article 265 is that no tax shall be levied or collected except by 'authority of law' and not 'by law'."

* SRI T. VISWANATHAM :—"Only when there is law, there will be authority. I think it is better for this new Legislature to understand the implications of that very short but very pithy Article 265. 'By authority of law' means authority which the Government get by the passing and after the passing of a law. The Act of 1939 is a law passed by the previous Legislature. To the extent to which its provisions are against Article 265 of the Constitution, the old law is invalid and unenforceable. Increasing the rate by a notification and then passing a resolution approving of that notification is clearly invalid and *ultra vires*. Therefore I submit that we cannot consider this resolution at all."

"The second point of order is this. The resolution now on the agenda says that the Governor . . . fixes six annas per gallon as the rate . . . with effect on and from the date on which this notification is approved by a resolution of the Legislative Assembly. Let us assume that the resolution will be passed. Then it will come into effect from to-day. Article 213 of the Constitution says—

"An Ordinance . . . shall cease to operate at the expiration of six weeks from the reassembly of the Legislature or if before the expiration of that period a resolution disapproving it is passed by the Legislative Assembly."

Therefore the Ordinance cannot discharge itself unless the Hon. Leader of the House brings forward a legislation disapproving of it. We will certainly welcome such a resolution. The Ordinance continues to be in force till six weeks from 27th June 1952, the date of reassembly of the Legislature. The Hon. Minister moves

**NOTIFICATION MADE BY THE GOVERNOR UNDER FIRST PROVISIO 741
TO SECTION 3 (1) OF THE MADRAS SALES OF MOTOR SPIRIT
TAXATION ACT, 1939**

31st July 1952]

[Sri T. Viswanatham]

a resolution that the revised rate of tax shall come into effect from to-day. There is a conflict. The wording of the resolution is not good and has to be modified.

“ On the grounds referred to above, I object to this resolution. We raise these points not to be legalistic, or quibble with law, but to safeguard the democratic rights of the citizens. One of the most important rights of democracy is that we shall not be taxed except under the authority derived from law. When there is no law and the Government want to impose tax by a mere resolution of the Legislature, it is making a breach into the democratic rights of the people, a breach into the Articles of the Constitution. Therefore I submit that this motion moved by the Hon. Minister for Rural Welfare is out of order and I pray it may be ruled out of order.”

SRI S. S. KOLKEBAIL :—“ Sir, I want to raise another point of order. The motion before the House is—

‘ That the following notification made by the Governor of Madras under the first proviso to section 3 (1) of the Madras Sales of Motor Spirit Taxation Act, 1939 (Madras Act VI of 1939), be approved.’

“ The notification is covered by the Ordinance which says :

‘ Notwithstanding anything contained in section 3, sub-section (1) of the Madras Motor Spirit Taxation Act, 1939 (Madras Act VI of 1939), or in any notification issued thereunder, there shall be levied on all retail sales of petrol effected after the commencement of this Ordinance a tax at the rate of six annas per gallon ; and the Act aforesaid shall have effect accordingly.’

What the Government want to do is to enhance the tax on a gallon of petrol by two annas after obtaining the approval of this House for this notification. My submission to the House is that our legislative powers have been completely defined in Article 246 of the Constitution. For the benefit of the House I shall read out that Article—

‘ 246 (1) Notwithstanding anything in clauses (2) and (3), Parliament has exclusive power to make laws with respect to any of the matters enumerated in list I in the Seventh Schedule (in this Constitution referred to as the ‘ Union List)’.

(2) Notwithstanding anything in clause (3), Parliament, and, subject to clause (1), the Legislature of any State specified in Part A or Part B of the First Schedule also, have power to make laws with respect to any of the matters enumerated in list III in the Seventh Schedule (in this Constitution referred to as the ‘ Concurrent List)’.

(3) Subject to clauses (1) and (2), the Legislature of any State specified in Part A or Part B of the First Schedule has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the ‘ State List)’.

The powers of this Legislature and the subjects on which this House can legislate are mentioned in the State List and also in the Concurrent List. In the State List there are 66 items and in the Concurrent List there are 47 items. In these lists we do not find the word ‘ petrol ’. On the contrary if we look into the Union list, item 53, we find the word ‘ petroleum ’. Sir, this subject is not

742 NOTIFICATION MADE BY THE GOVERNOR UNDER FIRST PROVISIO
TO SECTION 3 (1) OF THE MADRAS SALES OF MOTOR SPIRIT
TAXATION ACT, 1939

[Sri S. S. Kolkebail]

[31st July 1952]

within the purview of this House, and this House has no right to legislate on a subject which is within the purview of the Central Legislature. It may be argued by the Government that in view of Article 277 (which gives certain powers to the State Governments) this law, which has already been in existence, is still in force, and, therefore, they can levy the tax. But here, the Government want to collect some more tax from the people, and that does affect the fundamental rights mentioned in Article 13. Article 13 of the Constitution says that all laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void. My submission is that Act VI of 1939 is void. Even if the Speaker were to hold that Act VI of 1939 is not void, then I say that the present taxation is void, because the word 'petroleum' does not come in any of the two lists, namely, State List and Concurrent List. Further, day before yesterday, the Indian Parliament passed an Act declaring certain articles as essential articles. Parliament has stated that all laws which shall be passed by any State shall not be valid unless they receive the assent of the President. This is reported in the *Hindu* of the 29th instant. The report says—

'The House of the People to-day passed the Essential Goods (Declaration and Regulation of Tax on Sale or Purchase) Bill. The measure seeks to declare certain goods as essential for the life of the community. No law, made after the commencement of this Act, by the Legislature of State imposing sales-tax on these goods will have effect unless it has received the assent of the President.'

Of course, it has stated so many articles. *Inter alia* it has mentioned petrol. My submission is that petrol is a subject which entirely falls within the purview of the Union List, and, as such, this Legislature has no power at all to legislate in this matter. We are legislating on a forbidden subject. My submission to the Speaker is . . .

MR. SPEAKER :—"I understand the hon. Member. He says that it is *ultra vires* of this Legislature, to legislate on the subject of petrol."

SRI P. RAMAMURTHI :—"Sir, I rise to support the point of order raised by the hon. the Leader of the Opposition. Under Article 265, no tax shall be levied or collected except by the authority of law. The whole question revolves round the interpretation of the words 'authority of law'. What exactly is law, is the question. I would like to refer to Article 3 of the Constitution to understand what exactly the framers of the Constitution mean by the word 'law'. The proviso to Article 3 says—

'Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill affects the boundaries of any State or States, specified in Part A or Part B of the First Schedule or the name or names of any such State or States, the views of the Legislature of the State or, as the case may be, of each of the States both with respect to the proposal to introduce the Bill and with respect to the provisions thereof have been ascertained by the President.'

**NOTIFICATION MADE BY THE GOVERNOR UNDER FIRST PROVISIO 743
TO SECTION 3 (1) OF THE MADRAS SALES OF MOTOR SPIRIT
TAXATION ACT, 1939**

31st July 1952] [Sri P. Ramamurthi]

The normal procedure in all Parliaments (it has been the normal practice in this Legislature also all along) has been first of all to publish a Bill and give notice of that Bill to the Members of the Legislature and also the public, so that Members of the Legislature can have sufficient time to think over the implications of the provisions of the Bill. Afterwards, a certain procedure is followed for the purpose of passing that Bill into law. Any law affects the people of the State. That is why this elaborate procedure has been laid down. Now to come forward and say that a resolution passed by the House is itself law, will stultify the very provision that has been made in the Constitution. Therefore, the point of order raised by the hon. the Leader of the Opposition is very correct."

* THE HON. SRI C. RAJAGOPALACHARI :—" Sir, the point raised is that a resolution is not a law, and, therefore, this levy of a tax by a resolution is not legal. That is what the Leader of the Opposition laid stress on and what the hon. Member Mr. Ramamurthi confirmed in his argument. The question, however, is not that. The question is whether the law which was passed in 1939 has, at present, validity or not. That is the first question to be decided. There is a provision in the Constitution which says that all existing laws, in spite of anything else, unless they are specifically repealed, are valid. Article 372 therefore provides for the continuance of Madras Act VI of 1939. That is the first thing to be decided. Nobody contends now that the Madras Sales of Motor Spirit Taxation Act, 1939, has been repealed, for the result then would be that we cannot collect even the existing rate. That law is alive and is in force.

" The next question is, what is the authority for levying the tax. It is that same law under which we levy the present tax that gives authority for exercising power to levy a new addition to the tax by way of a notification. If the Act of 1939 is alive, that law gives us the power, by a resolution, to adopt the notification and approve of the notification, and levy the tax.

" Then the argument was advanced that apart from the existing law being enforced, we must go back to the general principles and see whether any tax could be levied by a mere notification.

" Now it comes to this. Supposing to-day a Bill is placed before this House and it is passed into an Act empowering the Government to levy an increased duty from time to time by means of a notification, nobody can contend that it would be illegal, because the Courts have decided that delegated authority is lawful and can be authorized by Parliament or by other Legislatures. So, the only question now is whether Madras Act VI of 1939 is in force or not and, if it is in force, it authorizes this Resolution. I submit that there is no force in the point of order.

" With regard to the other point raised by the hon. Member Sri Kolkebai], that we cannot levy a tax on petrol at all, I submit that is also not a valid point, because the old Provincial List and the present State List give power to the State Government to

10
a.m.

[Sri C. Rajagopalachari] [31st July 1952]

impose a tax on sales. This is part of that general power and it is under that power that Madras Act VI of 1939 was passed even before.

* SRI T. VISWANATHAM :—“ I never said that the previous laws did not continue. I actually said that they would continue. But if the previous law contains provisions which are against the Constitution, to the extent of the repugnancy, they are invalid. That is the fundamental point of the Constitution, which no one can get over. Therefore, when it is provided in the Constitution . . . ”

* THE HON. SRI C. RAJAGOPALACHARI :—“ That is the very point which I answered. I am sorry I was brief in my remarks. I am always getting into difficulty trying to be brief. The point that I made was that there was nothing in the previous law which was inconsistent with the provisions of the Constitution, because the Courts had decided that such delegated authority was lawful. It is on that basis that I wish to say that if a motion is adopted to-day giving delegated authority, it will be lawful.”

* SRI T. VISWANATHAM :—“ I am not on the point of delegated legislation. It is true that if to-day we pass a law giving the power of delegation to the extent that this Legislature agrees to give, it will be valid. But my point is not that. This delegation is obtained under the old Act. Whatever laws continue, they may continue under the transitory provisions of the Constitution. But all the same, no tax shall be levied except under the authority of law. (Interruption). When a tax cannot be collected except by passing a legislation to that effect, it cannot be collected by passing a Resolution. Sir, in two or three sentences, I will tell you the reason behind it. A Bill has got to go through three stages in which the House can apply its mind.”

MR. SPEAKER :—“ The point of the Leader of the Opposition is that a Resolution is not a law? ”

* SRI T. VISWANATHAM :—“ A Resolution is not a law under any stretch of imagination. There is no doubt about it. I hope, Sir, you will agree with me in that respect. The only question now is this. The Hon. the Chief Minister has stated that as the power is already existing, it will continue. My point is that after the Constitution has come into force, the Government cannot raise or collect a tax except under the authority of law. They cannot function under the delegation of an old Act. Although the Act may continue, the delegation is invalid. Therefore, the Government can raise a tax now only by means of a law. That is the fundamental basis of democratic structure and that provision has been copied from the American Constitution. The Hon. the Chief Minister and all the other hon. Members know that it is one of the fundamental basements upon which the structure of democracy is built and that the moment we give any relaxation to that principle, that moment we will be trying to take away the bricks from the

NOTIFICATION MADE BY THE GOVERNOR UNDER FIRST PROVISIO 745
TO SECTION 3 (1) OF THE MADRAS SALES OF MOTOR SPIRIT
TAXATION ACT, 1939

31st July 1952]

[Sri T. Viswanatham]

foundation of democracy. The relevant Article of the Constitution is very clear. Delegated authority by means of a Resolution is certainly repugnant to Article 265 of the Constitution. I submit the Government will have plenty of opportunity to come forward with a Bill. I am not saying that hereafter they cannot do it. They have got the right to raise taxes. But let them do it in the manner provided in the Constitution."

SRI P. RAMAMURTHI :—" Sir, since the Hon. the Chief Minister raised an important point with regard to Article 372 of the Constitution, I would like to make my own submission so that the Chair may decide the question properly. Article 372 (1) simply states—

'Notwithstanding the repeal by this Constitution of the enactments referred to in article 395 but subject to the other provisions of this Constitution, all the law in force in the territory of India immediately before the commencement of this Constitution shall continue in force therein until altered or repealed or amended by a competent Legislature or other competent authority.'

Article 395 states—

'The Indian Independence Act, 1947, and the Government of India Act 1935, together with all enactments amending or supplementing the latter Act, but not including the Abolition of Privy Council Jurisdiction Act, 1949, are hereby repealed.'

I submit that Article 372 refers to certain provisions. But now with regard to taxation on motor spirit, the position is covered by Article 277 which states that any taxes, duties, cesses or fees which, immediately before the commencement of this Constitution, were being lawfully levied by the Government of any State . . . may . . . continue to be levied . . . (Interruption.) Therefore, the Government can get power to levy a tax on motor spirit only under Article 277 of the Constitution because although 'motor spirit' comes under the Union List . . ."

THE HON. SRI C. SUBRAMANIAM :—" The tax is on petrol. What is the item which, according to the hon. Gentleman, excludes completely our jurisdiction? "

SRI P. RAMAMURTHI :—" In the State List, it will be seen . . ."

THE HON. SRI C. SUBRAMANIAM :—" We have got the power to levy a sales tax. It is not necessary that every article should be mentioned in the State List for this purpose. A tax on the sale of goods can be levied, whether it is petrol or any other thing."

SRI P. RAMAMURTHI :—" Under Article 277 of the Constitution, the State Government have got the power under the previous Act to levy a tax on petrol. That is valid and there is no question about it. Granting that it is valid, any action to enhance the tax must be taken only under the authority of a law and not under delegated power."

[31st July 1952]

* THE HON. SRI C. RAJAGOPALACHARI :—“ I will draw one more point to the attention of the Chair. This question has been thoroughly examined and we have taken this step under the law after looking into all the points. The question now is this. Though the original Act has not been repealed because the existing laws are protected, does a certain part of it stand repealed? That is the point which has been raised. I submit it does not stand repealed even in part because even when the Parliament recently took up the question of restricting the powers of the States in respect of taxation, they provided expressly for preservation of the existing powers there and it was only future laws that they tried to interfere with. Otherwise, according to the general principle now enunciated, it would be wholly out of order. I submit, Sir, there is no doubt that Government have power to act under the old Act and bring forward a Resolution for approval of the House.”

SRI T. VISWANATHAM :—“ I thought the Hon. the Chief Minister was going to say something about the existing Ordinance *plus* this Resolution.”

* THE HON. SRI C. RAJAGOPALACHARI :—“ I thought it was not very important or difficult to understand. There is already a provision that as soon as the House approves of it, the Governor will have full authority to withdraw the Ordinance. It is not our intention to have a double tax. The Ordinance will be withdrawn the moment approval is given to this Resolution.”

SRI T. VISWANATHAM :—“ I want to know whether the Governor has got the power to withdraw it.”

THE HON. SRI C. RAJAGOPALACHARI :—“ Yes, he has got the power.”

MR. SPEAKER :—“ The Ordinance will automatically lapse. Now, the hon. Member Sri T. Viswanatham has raised a point of order. He says that this Resolution is *ultra vires*. In this connection, I hope the House or at any rate the hon. Member Sri Viswanatham will remember that on a former occasion I quoted the ruling of Mr. Abdur Rahim given in the Central Parliament. The proper authority to decide the question whether a legislation is *ultra vires* or not is the Court and not the Legislature.”

SRI T. VISWANATHAM :—“ Sir, before you give your ruling, please allow me to say a few words of explanation.”

MR. SPEAKER :—“ Yes. Secondly, I must tell the House that in England when similar points of order are raised, the hon. Member concerned gives notice of it to the Speaker beforehand. The House will also remember that in England the Speaker is assisted by a Legal Adviser, namely, the King's Counsel. Here I have not got such a Legal Adviser. I must also tell the House that when the Government bring forward a motion, the Speaker has nothing to do with the effect of it. The proper forum to decide whether it is *ultra vires* or *intra vires* is the Court.”

31st July 1952]

* SRI T. VISWANATHAM :—" I would like to say something about your final sentence, Sir. Apart from the functions of the Court, we have also got certain definite functions when we are conversant . . . "

MR. SPEAKER :—" The Hon. the Leader of the Opposition could have informed me beforehand about his intention to raise this point of order. In England the Members give previous notice to the Speaker in such cases."

* SRI T. VISWANATHAM :—" Sir, I did not want to take anybody by surprise. As the Hon. Minister was reading the motion, the idea occurred to me and I was looking up the books for authority. That is why I could not immediately spot the Article wherein it is said that a Resolution which is repugnant to the provisions of the Constitution, is, to the extent of repugnancy, void. I was not able to readily lay my fingers on the relevant provision, because I did not sit with the idea of raising a point of order. Only when the Hon. Minister was reading the motion, I could immediately see that we were going to do something wrong and, therefore, I could not come up to you beforehand."

" I am opposed to the extent that no tax can be collected by a resolution. It may be a resolution according to existing law or it may not be. Whatever it is, a resolution is not law. Let us not be a party to collect taxes by means of resolutions."

10-10
a.m.

THE HON. SRI C. SUBRAMANIAM :—" May I state one thing, Sir? It is just a fleeting idea which the hon. Leader of the Opposition has put forward before this House."

SRI T. VISWANATHAM :—" It is a very permanent idea."

THE HON. SRI C. SUBRAMANIAM :—" We have examined this question. Our Legal Department has examined this question thoroughly and we have come to the conclusion that we are doing the right thing. Under these circumstances, it is for the Courts to say whether it is *ultra vires*."

SRI T. VISWANATHAM :—" I respectfully protest against the remark made by the Hon. Minister that I had a fleeting idea. It is not a fleeting idea. It is a permanent idea. A fleeting idea is different, it comes and goes. But mine persists. This idea came to me as the Hon. Minister was going on with his speech. It is a very correct thing. In spite of my not having a Legal Department, I am very certain that I am in the right."

(Sri P. Ramamurthi was seen rising up in his seat.)

MR. SPEAKER :—" I am not going to allow more time for this. I have already allowed enough time. I am now going to give my ruling. For the three reasons that I have already given, I rule that the point of order raised by the hon. Leader of the Opposition is clearly out of order. Now, let us take up the resolution."

748 NOTIFICATION MADE BY THE GOVERNOR UNDER FIRST PROVISOR
TO SECTION 3 (1) OF THE MADRAS SALES OF MOTOR SPIRIT
TAXATION ACT, 1939

[31st July 1952]

* SRI T. VISWANATHAM :—“ Sir, I oppose this resolution for very many good reasons. We are opposed to any increase in taxes. I am not going into this bit or that bit of taxation for the present. Under the present circumstances, in the present economic conditions obtaining in the country, we are opposed to any new taxes or any increase in taxes which will affect the cost of living. The Hon. Chief Minister charged us the other day that we are opposed to any form of taxation. It is not correct. We are for certain taxes. But we are opposed to increase in taxes or the imposition of new taxes at this stage. I wish to submit to the hon. Members of this House that it is time we revised our entire taxation structure, whether it is land tax, commercial tax or any other. Commercial tax has become more and more important than the land taxes. The whole structure has changed from what it was very many years ago. I submit it would be very wrong for the Government that has come into existence after the first General Elections after Independence, to continue the taxation in a very haphazard manner. I want the Government to appoint a Taxation Enquiry Committee. You remember that the Finance Minister of the Central Government stated that the Government of India are planning to appoint a Taxation Enquiry Committee. That Committee may go into the taxes which are within the power of the Central Government. So far as we are concerned, we are greatly agitated over the present incidence of the land tax and the present uneven distribution of other taxes. This method of levying a surcharge of 2 annas on one thing and one anna on another thing is very haphazard. I want the Government to be more scientific. They can do it and arrive at scientific results, I mean fairly scientific results, only if they revised the entire taxation structure. Therefore, the Government must appoint an Enquiry Committee which must go into this question and also the question of even distribution of the incidence of taxation and arrive at proper conclusion. The taxes must be in relation to the enjoyment of lands and properties and profits derived therefrom. I ask the Government to take up the matter with the Central Government also and come forward with a comprehensive measure of taxation. I know they cannot do it just now.

“ I know Government is run on the foundation of taxes. We are not against all taxation measures as a whole. We must first decide which articles can be taxed and who are the persons to be taxed. We are opposed in principle to the imposition of new taxes at the present time. A taxation enquiry committee must go into the economic conditions of the country and the people and it must go into so many other things and evolve a suitable taxation structure for this State. Although some Members on the other side may feel that they must support the Government, I am sure I am voicing the views of the entire population of this State, when I say that everybody is opposed to new taxes and increase in existing taxes at this stage.”

31st July 1952]

SRI P. RAMAMURTHI :—“ Mr. Speaker, Sir, I just want to make our stand clear on this point. Obviously, this is a tax on people who are users of motor-cars and it will naturally be thought that those people who can certainly afford to pay more taxes must be able to pay this tax. I agree to that proposition. But the whole question is this. The question before us to-day is that we cannot look at the taxation proposals in isolation from other consequences and circumstances. We must view these proposals taking into account also the revenue position and also the purposes for which the Government are going to spend or are spending those revenues. If it is a case where the Government want more taxes for the purpose of spending more money on nation-building departments, then certainly we will welcome any fresh taxes. We want taxes for such purposes and we welcome them. Such taxes, which fall on the richer classes, will certainly be welcomed by us. But, to-day, what are we seeing? What for do the Government want this money? The Chief Minister and the Government have been refusing to cut down expenditure, the heavy expenditure for administrative purposes. They refuse to cut down expenditure on the repressive administrative machinery of the State, viz., the Police Department. Having failed in our attempt to persuade the Government to cut down expenditure on these things, it is not correct on our part, and it is not correct on the part of the people to go on paying more and more taxes for enabling the Government to maintain a repressive police machinery which is directed against the interests of the people. I therefore oppose this resolution.”

* **SRI S. C. C. ANTHONY PILLAI :—**“ Mr. Speaker, Sir, on behalf of the Party which I have the honour to represent on the floor of the House, I want to say that we are opposed to this taxation measure for the following reasons. The first reason is this. We have had no proper and adequate reply from the Council of Ministers on certain matters. For instance, the Ministry has not taken sufficient steps to enquire into the leakage of budget secrets. We want to dissociate ourselves from the remarks made by the hon. Leader of the Opposition when he said that he was opposed to all new taxes at present. We are not opposed to all increases in taxes or all new taxes. We would like to see the incidence of taxation fall on the rich. To that extent, I would like to dissociate my party from the statement made by the Leader of the Opposition. Nevertheless, we are opposed to this tax as we believe that it is a regressive measure. Already, we notice reports in newspapers that there is a slump in the motor-car industry and any tax on the motor-car trade and industry at the present moment may not yield very much.

“ Therefore, the further increase in taxes on motor vehicles is likely to yield less in the form of revenue. I suggest that this increase in tax is regressive and the taxation proposal should be dropped. The whole question of taxation on motor vehicles is under

10-20
a.m.

[Sri S. C. C. Anthony Pillai] [31st July 1952]

review by the Central Government and we do not think that this is an opportune moment for the introduction of a tax of this nature."

* SRI T. VISWANATHAM :—" On a point of personal explanation, Sir, I did not say that I opposed new taxes at all times. I said that imposition of increased taxes might follow an enquiry into the present structure of taxation. I did not say that I was opposed to taxes for all time to come."

* THE HON. SRI C. RAJAGOPALACHARI :—" Mr. Speaker, Sir, I am grateful to the Opposition for giving me this opportunity to speak and explain the necessity for this tax. The necessity for taxation on its merits is really the necessity for further expenditure. The necessity for expenditure has been thoroughly explained in the Budget debate and various proposals were made in this House not only for capital expenditure, but for expenditure for the benefit of the people—for increase in production and the like—on the revenue account. It is, therefore, necessary, if Part II schemes are increased and be added to every year, to have a Part II scheme so to say for taxation also. It is necessary for that reason to tax.

" Then, the hon. the Leader of the Opposition said, and said very rightly, that he did not object to taxation as such. He said so because I am sure he expects to be in Government one day; he will have to levy taxes then and he does not want the then Opposition to put before him his present speeches. He has, therefore, admitted rightly that he is not opposed to taxation as such. May I, Sir, combine the very skilful speeches made by Mr. Anthony Pillai, Mr. Ramamurthi and the Leader of the Opposition and say that they are not opposed to taxation as such but to taxation by the present Government? This is the fair and frank attitude they take up. They are opposed to any form of taxation by the present Government, whether it is on the poor or on the motor user or on the rich. Mr. Ramamurthi has explained—rather he has tried to explain—his position by saying that since Police expenditure is increasing, the 'repressive' expenditure is increasing, he wants to oppose every form of taxation proposed by this Government. That is also a frank position to take up. But it was Mr. Ramamurthi and his colleagues who wanted the constables' batta to be raised, their salaries to be raised and their allowances to be raised. (Applause from the Ministerialist benches.) I agree that there is distinction between the poor and the rich; I agree that there is distinction between the small and the big. And I agree that they are after the small. I know that that is their hunting ground. But we shall not allow that hunt to succeed. We may reform everything but it is necessary to tax even to run the present Government. The Leader of the Opposition said: 'Appoint a Taxation Enquiry Committee'. A very reasonable proposal. But I would submit to him a reasonable thing to remember, namely, that when the question of distribution of the financial resources of India as a

31st July 1952]

[Sri C. Rajagopalachari]

whole between the Centre and the States, to which active consideration is being now given, is decided, an Enquiry Committee will naturally follow. Meanwhile, are we to suspend everything now? We cannot do it. Even if I appoint a Taxation Enquiry Committee with the help of the Opposition, even on that Committee we will have to spend, and you will have to maintain the present administration together with that Committee, which, I am sure will take a pretty large slice of the resources of the State. We know how Committees work. Evidence will have to be taken. Vested interests will have to give evidence as to how they got on in the past and how they fare now. It will be a prolonged enquiry. I submit, therefore, that the present resolution should be approved by the House.

"The hon. Member, who spoke on behalf of the Socialist Party said what he has said, because he has necessarily to be on the defensive. Here is a Socialist leader opposing a tax on the rich people. He has to defend himself. Therefore, he tells us very wisely that the tax is not desirable from the economic point of view, from the point of view of public finance, as this may come under the law of diminishing returns and we may get less and less in course of time. Sir, this is what we also feared. I am grateful to him for that consideration. This is the reason why we put the increase at two annas. At present the rate is four annas and we would have put it greedily at eight annas but for this consideration. It is, therefore, limited to the extent to which it has been limited on account of the consideration pointed out by Mr. Anthoni Pillai.

"There are, I know quite a number of hon. Members on the other side who have a very tender corner for the rich people. But they do not exhibit it or confess it. Some of them have at any rate the dominant idea: 'Do not allow any taxes for this Government'. I submit, Sir, this is not fair. Let us go on with our present Government and try to improve it. Let us improve our taxation structure, both of us consulting each other, vis-a-vis the Centre and then it will be easy for us to readjust things in consultation with each other."

SRI T. VISWANATHAM :—"On a point of personal explanation, Sir. It is not my view and I never said: 'Do not allow this Government to raise this tax'."

THE HON. SRI C. RAJAGOPALACHARI :—"You implied that."

* SRI T. VISWANATHAM :—"He says that that is the effect of what I said. That is not it, Sir. Our charge is that the Government have not properly looked into the expenditure and the revenue sides; our charge is that they have foreseen less income than they can get; our charge is that this taxation, even for the purposes for which it is required by the Chief Minister, is not necessary; to be precise, our charge is that they can get sixteen to eighteen crores of rupees by way of sales tax, whereas they have budgeted for only

[Sri T. Viswanatham]

[31st July 1952]

fourteen and a half crores of rupees. Our charge is that when revenue is adequate, no fresh taxation should be resorted to. So, Sir, our charge is not that this Government should have no right to collect any taxes, but that there is no necessity for further taxation now. We have no tender heart for the rich man. I think, if I were in the position of the Chief Minister, I would first bring in a Bill which would tax only the rich man."

* THE HON. SRI C. RAJAGOPALACHARI :—" Sir, in view of the expanded nature of the personal explanation of the Leader of the Opposition, let me say a few words, not as personal explanation, but in answer to what Mr. Viswanatham has said just now. The expenditure side has already been discussed in the House. Apart from the decision at the time when anything is discussed, we must proceed from step to step taking things for granted which have been approved. The expenditure has been approved when the Budget is passed. The question now is, how to meet the gap which is not a very little bit. I promise the Leader of the Opposition and all the Members on both sides of the House—because nobody likes taxes—that if we have really underestimated our returns and if next year we find that we have plenty of money from sales tax, especially from certain districts which have gone off too easily with reference to sales tax, we will certainly have that money. If there will be a surplus shown in the account next year, nobody is going to misappropriate it or allow it to be misappropriated. If surplus returns are shown, then there will be a wonderful piece of generosity from the Government which will be ruling then when the Budget is presented and they will say: 'We will give up this tax and that tax'. But to-day, as the Budget has been approved, it is not possible to renew arguments—and it is not right also—and say that this tax should not be allowed to be levied."

SRI T. VISWANATHAM :—" Do I understand that the duration of this Act is one year? "

THE HON. SRI C. RAJAGOPALACHARI :—" Every year, taxes may be revised."

MR. SPEAKER :—" The question is—
That the following notification made by the Governor of Madras under the first proviso to section 3 (1) of the Madras Sales of Motor Spirit Taxation Act, 1939 (Madras Act VI of 1939), be approved :—

NOTIFICATION.

In exercise of the powers conferred by the first proviso to section 3 (1) of the Madras Sales of Motor Spirit Taxation Act, 1939 (Madras Act VI of 1939), the Governor of Madras hereby fixes six annas per gallon as the rate at which tax shall be levied under that Act on all retail sales of petrol, with effect on and from the date on which this notification is approved by a resolution of the Legislative Assembly."

The motion was carried.